S.B. Civil Writ Petition No. 6874/2007
Bhanwar Lal & Anr.
vs
Addl. Civil Judge (JD) No.1, Bikaner & Ors.

Date of order : 23.10.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.DD Chitlangi, for the petitioners.

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Heard learned counsel for the petitioners.

It appears from the facts of the case that decree was passed by the court below against the petitioners for eviction and for mesne profit. In the execution of the decree, the possession of the property was taken over by the decree holder. The decree holder submitted application for sale of the goods of the defendant, which were taken in custody while taking possession of the property. The judgment-debtors submitted that in view of the fact that another litigation Mathura Devi Vs. Bhanwar Lal & Ors is pending in the court of Munsif, Bikaner and during the pendency of that suit, the mesne profit cannot be recovered from the petitioner. It appears from the facts of the case that the executing court is proceeding to recover the amount of the mense profit as per the decree only and if the petitioners-the judgment-debtors do not want to pay the decretal amount, the executing court can proceed to recover

the amount for the decree holder by selling the property of the judgment-debtors. I do not find any illegality in the order passed by the court below rejecting petitioners' objection and the executing court rightly dismissed the petitioner's application.

Hence, the writ petition of the petitioners is dismissed.

(PRAKASH TATIA), J.

c.p.goyal/-